

Arrears of Rent (Ireland) Bill.

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT.]

ARRANGEMENT OF CLAUSES.

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Settlement of Arrears of Rent.

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B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

TO

Make provision respecting certain Arrears of Rent in A.D. 1882.
Ireland.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

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PART I.

Settlement of Arrears of Rent.

1. (1) In the case of any holding to which the Land Law Settlement (Ireland) Act, 1881, applies, and which is valued under the Acts relating to the valuation of rateable property in Ireland at not more than thirty pounds a year, if on the application of either the landlord or the tenant of such holding the following circumstances (in this Act referred to as preliminary conditions) are proved to the satisfaction of the Irish Land Commission, namely,—

(a.) That the rent payable in respect of the year of the tenancy expiring on the last gale day of the tenancy in the year one thousand eight hundred and eighty-one (which year of the tenancy is in this Act referred to as "the year expiring as aforesaid") has been satisfied; and

(b.) That antecedent arrears of rent are due to the landlord; and

(c.) That the tenant is unable to discharge such antecedent arrears, without loss of his holding, or deprivation of the means necessary for the cultivation thereof,

the Irish Land Commission (in this Act referred to as the Land Commission) may make an order for the payment to or for the benefit of the landlord of a sum equal to one half of such antecedent arrears, subject to the limitation that the sum so paid shall not exceed the yearly rent payable in respect of the holding

[Bill 241.] A 2

A.D. 1882. for the year of the tenancy next preceding the year expiring as aforesaid.

(2.) On such order for payment to or for the benefit of the landlord being made by the Land Commission, all such antecedent arrears of rent shall be released and extinguished. For the purposes of this Act the saleable value of the tenant's interest may, if the Commissioners think it reasonable, be taken into account in ascertaining whether the tenant is unable to discharge such antecedent arrears.

(3.) All payments on account of rent made by the tenant to the landlord in or subsequent to the year expiring as aforesaid, shall be deemed to have been made on account of the rent payable in respect of that year, to the extent to which the rent for that year had at the time of such payment accrued due, provided that where it appears that according to the ordinary course of dealing between the landlord and tenant of a holding, the rent of such holding has usually been paid on some day after the day on which it became legally due, the usual day of payment shall be deemed for the purposes of this section to be the time at which the rent accrued due.

(4.) A remission by the landlord of the whole or any part of the rent payable in respect of the year expiring as aforesaid shall be deemed to be a satisfaction of the amount of rent so remitted; provided no remission made for any previous year shall be credited to the year expiring as aforesaid.

(5.) The Land Commission if satisfied on the occasion of any application made under this Act that it is just so to do, may authorise the tenant to make to the Land Commission any payments on account of the rent payable in respect of the year of the tenancy expiring as aforesaid which the tenant might otherwise have made to the landlord, and such payment shall for the purposes of this Act be deemed to have been made to the landlord, and the Land Commission shall, having first given public notice in the prescribed manner, cause any sum so paid by the tenant to be paid to the person appearing to such Commission to be entitled thereto as landlord.

(6.) Any money payable under this Act by the Land Commission to the landlord shall be paid to the person entitled as landlord without cost, except so far as may be caused by disputed title or by the person so entitled failing to comply with the rules for the time being in force relating to the payment of such money.

Modification
in case of
eviction

2. Any tenant evicted from his holding for nonpayment of rent may, if his landlord agrees to reinstate him, apply during the time

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limited for applications under this Act to the Land Commission under this Act, and the Land Commission may make an order under this Act in the same manner as if the tenant had not been evicted.

Any tenant evicted for nonpayment of rent whom the landlord does not agree to reinstate, but who is entitled to apply for a writ of restitution in pursuance of the seventy-first section of the Landlord and Tenant Law Amendment Act (Ireland), 1860, may apply during the time limited for applications under this Act to the Land Commission under this Act, and the Land Commission may make an order under this Act in the same manner as if the tenant had not been evicted, and on an application being made to the court having cognisance of the case for a writ of restitution, that court shall deal with the case as if the tenant had paid all arrears of rent up to the last gale day in the year expiring as aforesaid, but otherwise shall proceed in manner directed by the said Act of 1860.

A.D. 1882.

tenant when
restored to
holding.

For the purpose of enabling any such evicted tenant to make an application to the Land Commission under the first section of this Act, the Land Commission shall have power, on application made by him during the time limited for applications under this Act, to enlarge the time during which he may redeem his tenancy, subject to such terms and conditions as may seem just.

Provided that an order of the Land Commission under this section shall not take effect until and unless the tenant is restored to his holding.

25 3. This Act shall apply to holdings subject to existing leases within the meaning of section twenty-one of the Land Law (Ireland) Act, 1881, in like manner as it applies to any other holding.

Application
of Act to
existing
leases.
44 & 45 Vict.
c. 49.

PART II.

Supplemental Provisions.

30 4. For the purposes of this Act the Land Commission may exercise all powers vested in them for the purpose of the execution of the Land Law (Ireland) Act, 1881, and shall have full jurisdiction to hear and determine all matters, whether of law or fact, that may be required to be determined by them for the purposes of this Act, and in particular they may determine, in the case of any holding, who is to be dealt with as tenant, and who is to be dealt with as landlord, for the purposes of this Act, and they shall have power to retain in their hands any moneys which may be payable to a landlord until they have decided to whom such moneys are legally payable, and they shall in respect of such moneys have all the powers vested in the

Powers of
Land Com-
mission.



A.D. 1882. court by the thirty-seventh section of the Landlord and Tenant (Ireland) Act, 1870, in respect of the distribution of purchase moneys, in the same manner as if the moneys so payable to the landlord were purchase moneys.

The Land Commission shall not be subject to be restrained in the execution of their powers under this Act by the order of any court, nor shall any proceedings before them be removed by certiorari into any court.

Delegation of powers of Land Commission.
44 & 45 Vict. c. 49.

5. The Land Commission may from time to time by rule under this Act or by any special order delegate, subject to such appeal (if any) to the Land Commission as may be prescribed, any power or duty under this Act, except the power of making rules, to the Civil Bill Court or to any Sub-Commission, or any member of the Land Commission or of a Sub-Commission, and every Court, Sub-Commission, or member of the Land Commission or Sub-Commission to whom such power or duty shall be delegated, shall, in reference thereto, have all the powers of the Land Commissioners.

The Land Commission may, from time to time, with the assent of the Treasury, appoint fit persons possessing such qualifications as may be prescribed by the Treasury to investigate and report as to the existence or non-existence in the case of holdings of the preliminary conditions required to be proved for the purpose of orders under this Act and as to the values of such holdings, and the Land Commission may adopt any such report, or any part thereof, as may seem expedient, and may from time to time direct a fresh investigation to take place, or may themselves take evidence in respect of the subject matter of such investigation.

Any person or persons appointed in pursuance of this section may for the purposes of the investigation administer an oath.

Incorporated provisions of Landlord and Tenant (Ireland) Act, 1870.

6. In the case of any persons interested in any matter arising under this Act, the provisions of sections fifty-nine, sixty, and sixty-one of the Landlord and Tenant (Ireland) Act, 1870, as to administration on the death of a tenant, and as to provision for married women, and as to provision for other persons under disability, shall apply to any proceedings under this Act in the same manner as if the said sections were herein enacted, and in terms made applicable to this Act.

Rules for carrying Act into effect.

7. The Land Commission shall from time to time circulate forms of application and directions as to the mode in which applications are to be made under this Act, and may from time to time make, and when made may rescind, amend, or add to, rules with respect to the following matters, or any of them :

(1.) The tribunal, whether Land Commission, civil bill court, sub-commission, or member of the Land Commission or a sub-commission by which such applications are to be heard:

5 (2.) The mode of making applications under this Act, and the manner in which the tenant shall set out any property or effects of which such tenant may be possessed or entitled to, and which would be applicable to the satisfaction of any arrears of rent, and the conduct of proceedings before any tribunal hearing applications under this Act:

10 (3.) The conditions and circumstances on and in which appeals may be had to the Land Commission where applications have not been heard by the Land Commission:

(4.) The mode in which the expenses of hearing any application under this Act or of any appeal are to be defrayed:

15 (5.) The attendance and discharge of duties by the officers of the civil bill courts before the Land Commission and sub-commissions when holding sittings under this Act:

(6.) The service of notices on persons interested, and any other matter by this Act directed to be prescribed:

20 (7.) As to any other matter or thing, whether similar or not to those above mentioned, in respect of which it may seem to the Land Commission expedient to make rules for the purpose of carrying this Act into effect.

Any rules made in pursuance of this section shall be of the same force as if enacted in this Act, and shall be judicially noticed.

8. If in any proceeding under this Act any person concerned in such proceeding as principal or agent, with intent to substantiate a false claim to receive any money from the Land Commission, suppresses, attempts to suppress, or is privy to the suppression of any document, or of any fact, or produces or is privy to the production of any false evidence, the person so offending shall be guilty of a misdemeanour, and upon conviction shall be liable, in the discretion of the court, either to imprisonment for a term not exceeding two years, with or without hard labour, or to a fine not exceeding five hundred pounds.

Any sum paid by the Land Commission in respect of any false claim shall be a debt due to the Crown from the person on behalf of whom it is paid.

9. Any liabilities incurred by the Land Commission on account of payments to landlords in respect of arrears of rent under this Act shall be primarily a charge on the Irish Church Temporalities Fund, and, subject thereto, on the Consolidated Fund in such manner as may hereafter be provided by Parliament.

Charge of
liabilities
under
Act on Irish
Church Tem-
poralities
Fund and
Consolidated
Fund.

A.D. 1882. The Irish Church Temporalities Fund means the fund under the control of the Land Commission under the provisions of the Irish Church Act Amendment Act, 1881.

Definition of landlord. 10. The expression "landlord" in relation to a holding means, for the purposes of this Act, any person for the time being entitled to receive the rents and profits of such holding.

Limit of time. 11. An application under this Act shall not be made by any landlord or tenant after the last day of December one thousand eight hundred and eighty-two, except by leave of the Land Commission, and in no case after the thirtieth day of April one thousand eight hundred and eighty-three, and the Land Commission shall grant such leave only in cases where it is proved to their satisfaction that injustice would be done in case leave were refused.

Exclusion of tenants of holdings of an aggregate valuation exceeding thirty pounds. 12. An order under this Act shall not be made in the case of a holding the tenant of which is possessed of two or more holdings in Ireland to which the Land Law (Ireland) Act, 1881, applies, and the valuation of which under the Acts relating to the valuation of rateable property in Ireland amounts in the whole to more than thirty pounds a year.

And the question as to whether the tenant of any holding in respect of which an application may be made under this Act is or is not possessed of such holdings as are in this section in that behalf mentioned may be investigated and reported on by any person appointed under this Act to investigate and report on the preliminary conditions for an order under this Act. 25

Cancellation of certain rentcharges under 44 & 45 Vict. c. 43, s. 59 in repayment of advances for arrears of rent. 13. Whereas by section fifty-nine of the Land Law (Ireland) Act, 1881, it is provided, that where it appeared to the Court, on the joint application made on or before the twenty-eighth day of February one thousand eight hundred and eighty-two, of the landlord and tenant of any holding valued at a sum not exceeding thirty pounds a year, that the tenant had paid the whole of the rent payable in respect of the year of the tenancy expiring on the gale day next before the twenty-second day of August one thousand eight hundred and eighty-one, and that antecedent arrears were due, the Land Commission might make in respect of such antecedent arrears an advance of a sum not exceeding one year's rent of the holding and not exceeding half the antecedent arrears, and thereupon the Court should by order declare the holding to be charged with the repayment to the Land Commission of the said advance by a rentcharge payable and calculated as in the said section 40 mentioned;

And whereas in pursuance of the said section divers advances A.D. 1882.
 have been made in respect of the arrears of rent on divers holdings,
 and such holdings have been charged with the repayment of the
 said advances by such rentcharges as in the said section mentioned,
 5 and it is expedient to amend the said section, be it therefore
 enacted as follows:

Where in pursuance of section fifty-nine of the Land Law
 (Ireland) Act, 1881, an advance has been made, before the passing
 of this Act, towards the payment of the arrears due in respect of
 10 any holding, and a rentcharge has been charged on such holding
 for the repayment of such advance, the Land Commission, if it is
 proved to their satisfaction on the application of either the landlord
 or the tenant of the holding, that the tenant was at the date of the
 15 said advance being made unable to discharge the arrears in respect
 of which the advance was made may by order cancel the said rent-
 charge, and the same shall cease to be payable, whether by the
 landlord or the tenant, as from the last day appointed for payment
 20 of the same next before the date of the order and the amount of
 the said advance shall be a charge on the Irish Church Temporalities
 Fund.

14. This Act may be cited for all purposes as the Arrears of Rent Short title
of Act.
 (Ireland) Act, 1882.

15. Where it appears to the court, on the joint application of the
 landlord and tenant of any such holding valued at a sum not Arrears of
rent how
dealt with.
 25 exceeding fifty pounds a year—

That the tenant has paid the whole (or such sum as the landlord
 may be willing to accept as the equivalent of the whole) of the
 rent payable in respect of the year of the tenancy expiring as
 aforesaid, and the tenant has obtained a receipt in full for
 30 such rent, and that antecedent arrears are due, the Land
 Commission may make, in respect of such antecedent arrears,
 an advance of a sum not exceeding one year's rent of the
 holding, and not exceeding half the antecedent arrears, and
 thereupon the court shall by order declare the holding to be
 35 charged with the repayment of the advance to the Land
 Commission, by a rentcharge payable half-yearly during the
 thirty-five years from the date specified in the order, and
 calculated at the rate of five pounds by the hundred, by the
 40 year, of the advance: Provided, that on any transfer of the
 tenant's interest in the holding by sale the principal sum
 and interest remaining due to the Land Commission shall be
 paid out of the purchase money to the Land Commission.

A.D. 1882. Whenever, in the case of any tenant evicted for non-payment of rent since the first day of May, one thousand eight hundred and eighty, the landlord agrees to reinstate such tenant on the terms in this section set forth, this section shall apply as if such tenant had not been so evicted from his holding. 5

The charge declared by the order as aforesaid shall have priority over all charges affecting the holding except quit-rent and Crown rent, and sums payable to the Commissioners of Public Works, and the landlord for the time being of the holding shall pay to the Land Commission the sum for the time being due on account of such 10 rentcharge.

Every half-yearly amount of such rentcharge shall be deemed to be an addition to the half-year's rent of the holding (whether a judicial rent or otherwise) due from the tenant to the landlord, and may be recovered by the landlord accordingly. 15

On the order of the court being made as aforesaid in relation to any holding such antecedent arrears shall be deemed to be absolutely released.

The landlord and tenant may agree that any rent paid by the tenant in or subsequent to the year expiring as aforesaid shall be 20 deemed, for the purposes of this section, to have been paid in respect of the rent due for that year, and not in respect of arrears of rent.

Where arrears of rent in respect of a holding are due to some person or persons besides the landlord the advance made under 25 this section shall be ratesely distributed by the court amongst the persons entitled thereto.

An application for an advance under this section shall not be made after the periods mentioned in the eleventh Clause aforesaid.

The omission or refusal by either landlord or tenant of any 30 holding to join with the other of them in obtaining a loan from the Land Commission under this section shall not prejudice any other application or proceeding which either of them may make or institute under this Act or "The Landlord and Tenant (Ireland) Act, 1870," or "The Land Law (Ireland) Act, 1881," in relation to 35 such holding.

The Land Commission shall, at such time after the expiration of each period of twelve months as the Treasury may from time to time appoint, make up an account showing for the said period of twelve months the amount of all such payments due to them in 40 respect of rentcharges payable to them under this section as they have failed to recover at the expiration of the said period.

Arrears of Rent
(Ireland).

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B I L L

[AS AMENDED BY COMMITTEE AND
BY HOUSE OF COMMONS]

To make provision respecting certain
Arrears of Rent in Ireland.

(Prepared and brought in by
Mr. Charles, Mr. George Clinton,
Mr. George Gammie, Mr. Ireland,
Mr. Johnstone (for Ireland),

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